

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-10216JLT

CARLOS PINEDA and
ALEXANDRA PEREZ,
Plaintiffs,

v.

DANIEL KEELER, DENNIS
HARRIS, JOSPEH R. WATTS,
JOSEPH P. TOOMEY, WILLIAM
J. GALLAGHER, EDWARD
GATELY, JANINE BUSBY, and
the CITY OF BOSTON
Defendants

**DEFENDANT CITY OF BOSTON'S MOTION TO DISMISS COUNT III OF THE
PLAINTIFF'S COMPLAINT**

I. Introduction

The Plaintiffs, Carlos Pineda and Alexandra Perez (“Plaintiffs”), bring one claim against the Defendant, City of Boston, and numerous individual defendants¹, alleging a civil rights violation stemming from an incident that occurred on April 28, 2003. Pursuant to Fed. Civ. R. 12(b)(6), the Defendant, City of Boston (“Defendant” or “City of Boston”) moves to dismiss Count III of the Plaintiffs’ Complaint.

Defendant submits the attached memorandum in support of its Motion.

¹ In total, the Plaintiffs have brought suit against the following defendants: (1) City of Boston, (2) Daniel Keeler, (3) Dennis Harris, (4) Joseph R. Watts, (5) Joseph P. Toomey, (6) William J. Gallagher, (7) Edward Gately, and (8) Janine Busby.

DEFENDANT REQUESTS AN ORAL ARGUMENT FOR THIS MOTION

Respectfully submitted,

DEFENDANT CITY OF BOSTON
Merita A. Hopkins
Corporation Counsel

By their attorney:

/s/ Helen G. Litsas

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7.1 Certification

Undersigned counsel certifies that on June 1, 2005, pursuant to LR, D. Mass. 7.1(a)(2), she spoke with Plaintiff's counsel and we were unable to resolve or narrow the issue prior to filing the above motion.

6/1/05
Date: _____ /s/ Helen G. Litsas
Helen G. Litsas, Esq.

CERTIFICATE OF SERVICE

I hereby certify that on this day, a copy of this document was served upon counsel of record via electronic filing.

6/1/05
Date: _____ /s/ Helen G. Litsas
Helen G. Litsas, Esq.